

Exhibit 1

CONFIDENTIAL DOCUMENT

Exhibit 2

**CONFIDENTIAL
DOCUMENT**

Exhibit 3

CONFIDENTIAL DOCUMENT

Exhibit 4

UNCERTIFIED TRANSCRIPT

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ROUGH DRAFT OF ERICH SPECKIN - 3/29/07

VIDEOGRAPHER: We are on the record. This is tape and disk one of the deposition of Erich Speckin, being taken at the law offices of Brooks Kushman, 1,000 Town Center, 22nd floor, Southfield Michigan. Today is Thursday, March 29, 2007. The time is approximately 9:15 a.m.. this is in the matter of Armament Systems and procedures ink versus IQ Hong Kong limited et al. Civil action until 00-C-1257, pending in U.S. district court for the eastern district of Wisconsin. My name is Patrick Murphy, legal videographer for Esquire Deposition Services. The attorneys will now introduce themselves for the record.

MR. McLAREN: My name is Richard McLaren, I represent Armament Systems and with me today is expert Emily Will and my client, Kevin Parsons.

MR. CUNNINGHAM: Tom Cunningham on behalf of IQ Hong Kong and Zen Design.

MR. CURTIN: Peter Curtin of Venable, here on behalf Vector projects, Northland, fishing and tackle, mills fleet farm and the carqwest defendants.

MR. SCOTT: Craig Scott on behalf of Admissive

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1 A. To a reasonable degree of scientific certainty, I
2 believe that they are. Not to a certainty, though.
3 Q. To a reasonable degree of scientific certainty, those
4 are impressions?
5 A. Correct.
6 Q. When were they put into the document from which you did
7 this ESDA lift?
8 A. I don't --
9 MR. SCOTT: Objection to form.
10 MR. McLAREN: Basis.
11 MR. SCOTT: When what was what put into the
12 document.
13 MR. McLAREN: We will be real careful here.
14 Q. (By Mr. McLaren): Referring to the two green lines,
15 which are impressions in the document, when were the
16 impressions put in the document, Mr. Speckin?
17 MR. CUNNINGHAM: Objection.
18 MR. McLAREN: Basis.
19 MR. CUNNINGHAM: The green lines themselves
20 aren't impressions.
21 MR. McLAREN: Try it again.
22 Q. (By Mr. McLaren): Mr. Speckin, referring to the green
23 highlighting, you have highlighted impressions,
24 correct?
25 A. Correct.

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1 Q. When were those impressions put in that piece of paper?
2 A. I don't know.
3 Q. With regard to the orange lines to the lower right,
4 when were those impressions put into the piece of
5 paper?
6 A. I don't know.
7 Q. What about the yellow line, when was that impression
8 made?
9 A. I don't know.
10 Q. Can you opine to a reasonable degree of scientific
11 certainty with regard to the date of the piece of paper
12 Q-2 based on those three sets of impressions?
13 A. Sorry, I don't understand that question.
14 Q. There is a piece of paper you call Q-2, correct?
15 A. Right.
16 Q. And the five lines that you have highlighted on your
17 ESDA lift are impressions in that piece of paper,
18 correct?
19 A. Right.
20 Q. And you don't know when those impressions were made,
21 correct?
22 A. That's right.
23 Q. Can you opine to a reasonable degree of scientific
24 certainty with regard to the validity of the date that
25 is written on the piece of paper Q-2, based on those

1 impressions we have just mentioned?
2 A. No, I haven't drawn an opinion as to whether the date
3 -- let me back up. Your question appears to me to be
4 that can I say anything about whether Q-2 was written
5 on February 20th, 1999, or at some other time?
6 Q. Yes. Based on those five impressions we have just
7 discussed?
8 A. And the answer would be no, I don't know one way or the
9 other and I don't have an opinion.
10 Q. Okay. And with regard to Q-6, I'm going to shoot for
11 the same question. Can you opine to a reasonable
12 degree of scientific certainty with regard to whether
13 the piece of paper was sketched on 20 May 2000 based on
14 the impressions that we have just discussed for the
15 last five minutes?
16 A. No, not -- no opinion one way or the other.
17 Q. Is it possible to reach an opinion to a degree of
18 scientific certainty based on your ESDA lifts of the
19 impressions we have just discussed with regard to the
20 validity of that date?
21 A. Based on what I have in front of me right now, the ESDA
22 films and what I know at this point in time?
23 Q. Yes.
24 A. I haven't really thought about this before. I'm really
25 not prepared to answer. I don't -- I don't know of any

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1 way off the top of my head, but there very well could
2 be something, I just haven't thought about it with all
3 the sequences that we have from one document into the
4 next, so I can't really answer it as I sit here though.
5 Q. All right. Let me follow upon the sequences point.
6 Assume with me that I take a pen and do a
7 sketch on a sheet of paper A, all right, would you
8 assume that.
9 A. Sure.
10 Q. Okay. Pen and I do a sketch on sheet of paper A. And
11 underneath it is sheet of paper B. Are you with me so
12 far?
13 A. Not too complicated yet.
14 Q. Yes, sir. It is your opinion that there would be an
15 impression on sheet B, the one underneath, from my
16 sketch on sheet A, correct?
17 A. That there would be for a fact? Not necessarily.
18 Q. To a reasonable degree of scientific certainty, would
19 there be an impression?
20 A. Well, it wouldn't be a question of scientific
21 certainty, it would be a question of circumstance. In
22 most instances, yes, it would be.
23 Q. Fair enough.
24 A. But there are things that could happen that would cause
25 an impression to not be there, but in most instances

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1 primarily used.

2 Q. Okay. And in the course of this examination with

3 microscope, camera and hand held, did you do a line

4 sequencing analysis of any of the graphite with any of

5 the impressions on any of the documents you examined?

6 A. I think I looked at it on Q-1, I believe. And I didn't

7 see anything at all that would help me out. I don't

8 think I looked at the sequencing on any of the other

9 documents.

10 Q. Would you look at either one of your reports and show

11 me where you refer to a line sequencing analysis? And

12 will represent to you that I do not believe that those

13 words are in either report?

14 A. They are not.

15 Q. Why is it you did not disclose you had done a line

16 sequencing analysis?

17 A. Because I just looked at it briefly and I didn't think

18 it would help one way or the other.

19 Q. You testified a minute ago, Mr. Speckin, as I

20 understood it, that it is possible to tell which came

21 first, the impression or the graphite, based on those

22 nine factors you listed?

23 A. I said it is possible in some instances, that's

24 correct.

25 Q. Okay. Are you telling me that it is not possible with

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1 A. It is a two dimensional rendition of impressions, not a

2 three dimensional one, so the first part of the

3 question is non sense calendar to the examination.

4 Q. Okay. I apologize. You are the expert here. Is there

5 a thing called side lighting examination?

6 A. Yes.

7 Q. Does that show you the size of the impression?

8 A. Yes.

9 Q. Did you do it?

10 A. Yes.

11 Q. And based on the side lighting examination of any of

12 the documents, can you tell me whether it would be

13 possible to do an intersections sequence analysis of

14 the graphite with the impressions you found?

15 A. I didn't look at it for the purpose of anything other

16 than Q-1, so I don't know. I don't recall the document

17 specifically enough to answer your question and I

18 didn't examine it for that purpose.

19 Q. Was it your purpose, Mr. Speckin, to determine which

20 came first, the impressions or the graphite?

21 A. Only as it related to Q-1 at the time I was in Chicago.

22 Q. Can you opine to a reasonable degree of scientific

23 certainty which came first on Q-1, the impressions you

24 found or the graphite that's on Q-1?

25 A. No.

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1 regard to any of the documents here?

2 A. No.

3 Q. But you did it in Q-1 and you found nothing, correct?

4 A. Correct.

5 Q. Okay. And you did not do it on any others?

6 A. Not that I recall, that's correct.

7 Q. But you don't know whether it would have revealed

8 something if you had done it?

9 A. Of course not, I don't know.

10 Q. Well, I mean, you saw impressions on your ESDA list,

11 correct?

12 A. Right.

13 Q. And you said that the size of the impression was number

14 one factor on whether or not you could do an

15 intersection analysis between graphite and an

16 impression, right?

17 A. That's correct.

18 Q. Okay. So based on the size of the impressions you saw,

19 okay, based on your ESDA lifts, would it be possible to

20 do an intersection sequencing analysis?

21 A. First, as I said, I don't know, I didn't look at it.

22 Second of all, the ESDA impression doesn't tell you the

23 size of the impression. Looking at a film, you don't

24 know how big the impression is in the paper.

25 Q. Okay.

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1 Q. You say that you can opine on paragraph nine that of

2 your Exhibit 3 -- are you with me -- 9 A, B, C?

3 A. Correct.

4 Q. Okay. That Q-2 was written while fixed in perfect

5 alignment on top of but within a few a pages or less of

6 the page that became Q-1. Did I read that correctly?

7 A. That's correct.

8 Q. Okay. And in that phrase, you say the page that became

9 Q-1, rather than saying how you described Q-2, which is

10 just referring to it as its designation Q-2. Do you

11 notice that?

12 MR. SCOTT: Objection to form.

13 A. Did I say it became Q-1?

14 Q. Yeah. You say that that page that became Q-1.

15 A. Sure, I understand why.

16 Q. Okay. My first point is, you contrast the two in A,

17 you say Q-2, not the page that became Q-2, right?

18 A. Correct.

19 Q. And then you say the page that became Q-1, correct?

20 A. Absolutely.

21 Q. But you cannot opine which came first, the graphite or

22 the impressions on Q-1, you just said so, right?

23 A. From the ESDA film or the side lighting, but based on

24 the fact that it was fixed on the tablet and people

25 normally write from the top of the tablet down as

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1 opposed to the bottom of the tablet up, that would be a
2 correct statement.

3 Q. Okay.

4 A. So if you want me to assume that the person wrote from
5 the bottom of the tablet up, then I would say well,
6 then that may not be the case. But based on everything
7 else, that's my conclusion.

8 Q. All right. Let's assume -- let's just take your answer
9 and talk about that.

10 Can you tell me where in your report you site
11 a scientific article, peer reviewed, that people
12 ordinarily write sketch, not write, sketch, a drawing
13 on a pad of paper from the top down.

14 A. You know, I don't know if that's ever been published in
15 a scientific journal or not.

16 Q. You site none in your report?

17 A. I definitely do not site one in the report.

18 Q. Have you ever read one?

19 A. Not that I can think of.

20 Q. Can you tell me whether there is any recognized
21 treatise in the area of forensics that says that people
22 have been studied in ordinarily sketch inventions on a
23 pad from the top page down?

24 A. You know, it seems so obvious to me that I don't know
25 that I have ever even looked for that or heard anyone

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1 as being fixed in perfect alignment. Correct?

2 A. That's correct.

3 Q. Why did you make that change?

4 A. Because I don't have the document that of unknown
5 origin to say exactly that the graph paper lines up
6 with the document itself, so I was more conservative
7 when I said near perfect. And the other one, I have
8 Q-1, Q-2 and Q-6. In other words, every document
9 that's referenced in that paragraph, I have and was
10 able to examine. I was not able to examine the
11 document, quote unquote, of unknown origin, so I was
12 more conservative in my opinion.

13 Q. Okay. Maybe I am misreading this. In paragraph eight
14 you are talking about common impressions on Q-6 and
15 Q-2, correct?

16 A. Correct.

17 Q. Okay. And you are saying that Q-6 and Q-2 were lined
18 up?

19 A. Correct.

20 Q. So the exact words were -- I'm reading the second to
21 last line, paragraph eight. Q-6 was fixed in near
22 perfect alignment on top of Q-2. Etcetera. End quote.
23 Did I read that correctly?

24 A. Correct.

25 Q. So you are referring to Q-6 on top of Q-2?

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1 discuss it before. I have never heard anyone argue to
2 the contrary that I can think of in my lifetime. There
3 probably is one that exists, but I have never paid
4 attention.

5 Q. You go none 9 B and you say Q-6 -- I'm reading, so
6 check me on this. Quote Q-6 was written while fixed in
7 perfect alignment on top of the page that became Q-2
8 while Q-2 was fixed above Q-1. Paren, both Q-2 and Q-1
9 were purportedly done one and three years prior to Q-6.

10 Closed paren. Did I read that correctly?

11 A. I believe that was verbatim.

12 Q. Okay. Now looking up in paragraph eight, reading that
13 last sentence, begins the common impressions, are you
14 with me?

15 A. Okay. Yes.

16 Q. Quote the common impressions are much stronger on Q-6
17 than on Q-2 and sparsely lined up with the graph
18 paper lines which again shows that Q-6 was fixed in
19 near perfect alignment on top of Q-2 when the drawing
20 was of unknown origin was made. Did I read that
21 correctly?

22 A. I believe so.

23 Q. So in paragraph eight, you describe them as being fixed
24 in near and I am emphasizing near perfect alignment,
25 but in the next paragraph you describe them in nine B

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1 A. Correct.

2 Q. Okay. Now in nine, B, Q-6, same Q-6, right, Mr.
3 Speckin,?

4 A. That's correct.

5 Q. Okay. Was written while fixed in perfect alignment on
6 top of the page that became Q-2, etcetera, end quote.
7 Did I read that correctly?

8 A. Yes.

9 Q. Same Q-2, right?

10 A. That's correct.

11 Q. So from paragraph 8 to paragraph 9, your opinion
12 changed from near perfect to perfect, right?

13 A. Based on something -- they are not exactly the same
14 thing that was examined there.

15 Q. Okay. Let me go back. Paragraph 8 refers to exactly
16 two things. Q-6 and Q-2, I'm referring to the last
17 line that I just read you. Shows that Q-6 was fixed in
18 near perfect alignment on top of Q-2, etcetera,
19 etcetera.

20 A. I didn't follow exactly along because I was reading
21 something else when you said it, but the last four
22 times you read it it was verbatim, I assume that time
23 it probably was.

24 Q. Okay. Paragraph eight refers to Q-6, near perfect, on
25 top of Q-2. Paragraph nine B refers to Q-6, perfect on

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1 A. I don't believe it is in there.
 2 Q. I don't believe it is either. How about the word
 3 perforations as when you rip off a page like on my
 4 legal pad here, perforations, is the word perforations
 5 in your report?
 6 A. No.
 7 Q. In your addendum?
 8 A. No.
 9 Q. Did you examine the pages to see if they had
 10 perforations?
 11 A. Yes.
 12 Q. And where they there?
 13 A. I did not see any.
 14 Q. And you did not report the fact that they weren't
 15 there?
 16 A. No, I don't believe I did.
 17 Q. The absence of any perforations would tend to suggest
 18 that they were -- that the piece of paper was not in a
 19 pad, it would be one element of evidences that it was
 20 not part of a pad, true?
 21 A. Not with graph paper, no.
 22 Q. You are telling me it is impossible that graph paper
 23 could have been bound like my legal paper?
 24 A. Of course I didn't say that.
 25 Q. So it is possible and the absence of perforations would

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1 be evidence that the piece of paper you are dealing
 2 with didn't come from a pad like this, would it not?
 3 MR. SCOTT: Objection to form.
 4 A. Would it be evidence of that? No. I wouldn't say it
 5 would be evidence of that because most of the graph
 6 paper that I am familiar with that I have seen isn't
 7 perforated.
 8 Q. That wasn't the hypothetical, Mr. Speckin. I'm asking
 9 you about your finding that you didn't report that
 10 there were no perforations, that you looked for them
 11 and there were none. That's what I'm asking you about.
 12 Are you with me?
 13 A. I'm with you so far. That's what I have been
 14 answering.
 15 Q. Do you regard the absence of perforations to be not
 16 useful whatsoever in determining whether the pieces of
 17 paper came from a pad?
 18 MR. SCOTT: Objection. That's precisely the
 19 question he was answering before you accused him of not
 20 answering your question. As the record will reflect,
 21 sir.
 22 A. Do I consider the absence of impressions any evidence
 23 at all?
 24 Q. Absence of perforations?
 25 A. That's what I meant, right, right.

1 Q. Yes?
 2 A. Do I consider any evidence at all that what?
 3 Q. That the piece of paper came or didn't come from a pad?
 4 A. No, not with graph paper. Like I said, because most of
 5 the time it is not perforated.
 6 Q. All right. How about glue, do you -- did you examine
 7 the edges of the original documents for glue?
 8 A. I looked visibly and with a microscope, yes.
 9 Q. And you did not report that in your report?
 10 A. Specifically that, no, I said I examined it with a
 11 microscope and I said I examined the edges with a
 12 microscope when you asked me earlier, but I don't think
 13 it is as specifically that in the report.
 14 Q. The word glue is not in there, we agreed to that,
 15 right?
 16 A. Yes.
 17 Q. Okay. So you did not report that you looked for glue,
 18 fair?
 19 A. That's correct.
 20 Q. Okay. But you're testifying today that you did look
 21 for glue, true?
 22 A. True.
 23 Q. And you found none, right, Mr. Speckin?
 24 A. Yes, that's right.
 25 Q. Not on any of the documents that you reviewed?

1 A. I believe I only looked at Q-1 and maybe Q-2 for that.
 2 Q. And found no glue?
 3 A. That's right.
 4 Q. Do you regard that as being useless as far as evidence
 5 of whether the piece of paper came from a pad?
 6 A. I wouldn't say it is useless, no.
 7 Q. Isn't it some evidence that the piece of paper did not
 8 come from a pad?
 9 A. Not based on everything else that I have, no.
 10 Q. Why is that?
 11 A. Because the --
 12 Q. Understand I'm asking why isn't the absence of glue
 13 important here? That's the question.
 14 A. Because the alignment of the impressions and all the
 15 films that I have is so overwhelming obvious that it
 16 was in a pad that I didn't consider that to be a likely
 17 scenario that just because it didn't have the glue that
 18 it wasn't from a pad.
 19 Q. So if you were able to do a test microscopically of the
 20 edges of the paper and determine that there had been no
 21 glue on them ever, you still would not consider it
 22 important because of the alignment of the graph paper?
 23 A. There would be no way to conclude that there had never
 24 been no glue on them. That's why your hypothetical --
 25 that's why you don't think I'm making sense probably.

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1 You could never look at it microscopically and say this
 2 document never had glue on it. It is not possible.

3 Q. Is that your testimony under oath, Mr. Speckin, that
 4 you cannot look at the edge of a piece of paper and
 5 tell whether there has never been any glue on it?

6 A. Correct.

7 Q. Okay. Now let me ask you this. You mentioned Ampad
 8 here in your report correct?

9 A. Which report?

10 Q. I will find it. Would you look for it too, please? See
 11 if you can find it.

12 A. I believe it is paragraph 19 of the first report.

13 Q. And that would be the manufacturer of my legal pad?
 14 A. One in the same.

15 Q. Yes. And do you know whether or not the original
 16 pieces of paper that you examined, for example, the
 17 original that is right there, was in fact manufactured
 18 by Ampad?

19 A. No.

20 Q. Do you know who the manufacturer of any of the pieces
 21 of paper in fact was?

22 A. I think one of them it is on the paper. I would have
 23 to review -- I have the copies here.

24 Q. Yes. That's all right. I will tell you Q five says 3M
 25 in tiny letters across the bottom. Other than that

1 Q. Yeah.

2 A. Of course, I don't.

3 Q. And you don't know even the type of cutting machine
 4 that is the manufacturer of the machine, for example,
 5 that cut any of the edges of any of the pieces of
 6 paper, true?

7 A. Can you read that one back to me, please.

8 (Whereupon the question was read.

9 Back by the court reporter.)

10 A. I don't know the type or the manufacturer, I guess that
 11 would be a compound question, but I don't know either
 12 one.

13 Q. Okay. You don't know how many times the cutting blade
 14 comes down per day, would that be fair?

15 A. Of course not.

16 Q.

17 A. That's fair.

18 Q. And you don't know how many times the blade is used per
 19 year, could be used to cut 10 million sheets of paper
 20 for all you know, correct?

21 A. Could very well be.

22 Q. Do you know how often a company that makes graph paper
 23 uses a blade to cut the sheets of paper to eight and a
 24 half by 11 size, do you know the answer?

25 A. Every tablet. No, I don't know how many times though.

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1 one, do you know the manufacturer of any of the
 2 documents?

3 A. Accepting that that's correct, then I don't know any of
 4 the other ones, no.

5 Q. Did you take any steps to determine the actual
 6 manufacturer of any of the pieces of paper?

7 A. Yes.

8 Q. And what steps did you take?

9 A. I looked for any identifying characteristics on the
 10 paper, either the front or the back, or for a water
 11 mark that was embedded into the paper, and I didn't see
 12 anything. In any of the documents other than the one
 13 that had the notation on the front.

14 Q. Since you don't know the manufacturer of any of the
 15 pieces of paper but the one, which I represented, not
 16 you, okay, says 3M, you also therefore don't know what
 17 plant manufactured any of the pieces of paper, true?

18 A. Of course.

19 Q. And you don't know what paper making machine in the
 20 plant manufactured any of the paper, true?

21 A. Of course.

22 Q. Okay. And similarly, you do not know what cutting
 23 machine cut any of the edges of any of the pieces of
 24 paper, true?

25 A. What specific machine?

1 Q. Well, let me rephrase the question. Do you know how
 2 many sheets of paper are cut by a blade before they
 3 changed the blade?

4 A. I have no idea.

5 Q. Could it be 10 million?

6 A. Although I don't know, that strikes me as really high,
 7 but I have to say, I don't know.

8 Q. Do you know the size of the piece of paper when it is
 9 made graph paper? Do you understand the question?

10 A. You mean before it is cut?

11 Q. No, I'm talking about when the paper which is plane,
 12 let's say white, becomes graph paper, with grid lines,
 13 do you know what size that paper is when it is made
 14 graph paper?

15 A. When the lines are printed on it you mean?

16 Q. Yes.

17 A. No.

18 Q. Do you know how the lines are printed on it?

19 A. No.

20 Q. Do you know the proximate size of the machine that
 21 prints the graph paper on it?

22 A. No idea.

23 Q. Do you know how many eight and a half by 11 sheets are
 24 printed at a time when graph paper is made?

25 A. Well first, I don't even know what size they are as I

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1 said earlier.
 2 Q. Except that they are bigger than eight and a half by 11
 3 or maybe exactly eight?
 4 A. I don't know.
 5 Q. Well, they can't be smaller, can they?
 6 A. They definitely aren't smaller, but I don't know that
 7 they are exact. They could be bigger and then cut, I
 8 don't know.
 9 Q. Yes. Okay. Do you know what size -- assume with me
 10 that the paper is manufactured and placed on a roll.
 11 Do you know how big the roll is?
 12 A. It varies by manufacturer.
 13 Q. Okay. And of course you don't know the manufacturer of
 14 these originals that we are talking about here?
 15 A. That's correct.
 16 Q. During your second examination --
 17 A. Is this okay for like a five minutes.
 18 MR. MCLAREN: Yeah, sure. 1:345. Off the
 19 record.
 20 VIDEOGRAPHER: We will go off the record at
 21 1:43.
 22 (Whereupon a break was taken.)
 23 From
 24 VIDEOGRAPHER: We are back on the record at
 25 2:03. Please proceed.

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1 Q. (By Mr. McLaren): Mr. Speckin, you testified a number
 2 of places that the graph paper lines line up, correct
 3 in in your reports?
 4 A. It is mentioned in many places. Is that your question?
 5 Yes.
 6 Q. Yes. I did not find any reference to any tests that
 7 you did with regard to pads of paper or reams of paper
 8 other than the originals involved in this case. Is
 9 there any such reference in your reports.
 10 A. Any such reference to what, testing on reams or pardons
 11 of paper?
 12 Q. Right.
 13 A. I don't believe so.
 14 Q. Did you do any testing or analysis of reams or pads of
 15 paper other than the originals that are involved here?
 16 A. Let me take that back. 19 A pretty clearly says the
 17 graph paper is similar to a commercially available pad
 18 made by Ampad as well as others. So that was one thing
 19 that I did do, I did get some Ampad pads to look at the
 20 paper in them, the layout, formatting, that sort of
 21 thing. So that would be the answer to both of your
 22 questions, that is what I did and I take back my answer
 23 previously that I did do something that was mentioned
 24 in the report and it is under 19 A.
 25 Q. All right. Did you make any measurements of the graph

1 paper lines on the Ampad pads that you purchased?
 2 A. I don't believe so.
 3 Q. Do you still have the Ampad pads that you purchased?
 4 A. Yes.
 5 Q. Are they here today?
 6 A. No.
 7 Q. Did you consider them?
 8 A. No.
 9 Q. Did you consider any other sources of graph paper such
 10 as reams of graph paper or other manufacturers of pads?
 11 A. Nothing directly. I mean, other than what I have seen
 12 in my lifetime.
 13 Q. Have you -- do you have any knowledge or experience
 14 with regard to the tolerances adhered to by
 15 manufacturers of graph paper?
 16 A. What do you mean tolerances?
 17 Q. I mean the distance between the tiny blue lines and the
 18 distance between the tiny blue lines and the edge of
 19 the paper. Two examples.
 20 A. The first, the distance between the tiny blue lines, I
 21 would say is pretty standard. The distance between the
 22 blue lines and the edge of the paper, I have no idea if
 23 they even pay attention to that or not.
 24 Q. And do you know what the margin of error is on an Ampad
 25 pad for the distance between the tiny blue

lines?

1 MR. SCOTT: Objection to form.
 2 A. No, I don't know what the margin of error is.
 3 Q. Are the -- how far apart are the tiny little blue lines
 4 on the originals of Q-6?
 5 A. I don't know.
 6 Q. Well, eye ball it and just give me your best estimate.
 7 Would you say they are a millimeter apart?
 8 A. Well, actually, I don't think I am that good at the
 9 metric system to be able to tell you.
 10 Q. 8th of an inch or 16th of an inch?
 11 A. Let's see.
 12 MR. CUNNINGHAM: Objection. Calls for
 13 speculation.
 14 A. Yeah, probably an eighth maybe. I don't know exactly
 15 though. Just a guess.
 16 Q. How many major squares are there top to bottom?
 17 A. Pretty close to 11.
 18 Q. Okay. Would you say that the major squares an inch?
 19 A. Probably a little bit over, but I don't know, I am just
 20 guessing.
 21 Q. Yes. Well, I mean, it is an eight and a half by 11
 22 piece of paper, correct?
 23 A. Right.
 24 Q. And how many squares major squares across?

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1 A. About eight and a half.
 2 Q. Okay. And how many little tiny squares within a major 2
 3 square, would you agree ten by ten?
 4 A. Yes.
 5 Q. Okay. And do you know what the tolerance -- I think I 5
 6 asked you that before. You do not know what the
 7 tolerances are that the printing companies follow for
 8 the accuracy of those little blue lines, right?
 9 MR. CUNNINGHAM: Objection.
 10 A. So your question is based on what we just said, that
 11 the squares are probably a tenth of an inch?
 12 Q. Right.
 13 A. So how exactly are they -- how close are they to a
 14 tenth of an inch?
 15 Q. Exactly. What's the plus minus, the margin of error
 16 for the little blue lines?
 17 A. No idea.
 18 Q. Okay. And how about the edges?
 19 A. How about them?
 20 Q. What's the margin of error that typical graph paper
 21 manufacturers follow with regard to the distance
 22 between the little tiny blue lines and the edge of the
 23 paper?
 24 MR. CUNNINGHAM: Objection.
 25 A. That's the one I said I don't even know if they pay

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1 A. MR. CUNNINGHAM: Objection.
 3 A. I didn't consider the degree of variation, I saw among
 4 the six anymore than I already knew from the history of
 5 my life in looking at graph paper and being around it
 6 and using it, just confirmed what I already knew. I
 7 mean, I relied on my life's knowledge.
 8 Q. And is it your testimony that pieces of graph paper
 9 from different pads cannot possibly have the same lines
 10 vis-a-vis the edges of the paper?
 11 A. Of course I didn't say that.
 12 Q. Okay. Is it your testimony that they probably don't
 13 have the same tolerances to the edge?
 14 MR. CUNNINGHAM: Objection.
 15 A. What was the question, they don't have the same
 16 tolerances?
 17 Q. Yeah.
 18 A. My answer is I have no idea what the tolerances are.
 19 Q. Right. But you just said a minute ago that you had a
 20 group of five or six Ampad pads and you looked at them
 21 and you relied on your life experience, all right, and
 22 my question is, is it your testimony that different
 23 pads could not have pieces of paper in them that match
 24 up?
 25 A. That's right what you asked me and I said of course I

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1 attention to that.
 2 Q. Yes. Okay. And you didn't do any testing of that,
 3 correct?
 4 A. I looked at other pieces of graph paper when I got the
 5 Ampad to see how it varied from pad to pad, and I saw
 6 that there was a variance from pad to pad.
 7 Q. How many pads did you test or look at?
 8 A. I think there were six. I bought a bundle and I think
 9 there was six pads in the bundle or maybe five.
 10 Q. Do you still have the pad, the bundle?
 11 A. Yes.
 12 Q. Did you bring it here today?
 13 A. No.
 14 Q. Have you ever mentioned that in your report anywhere?
 15 A. As I said when you asked me before, I think it is
 16 mentioned peripherally in 19 A when I said it is
 17 commercially available -- similar to commercially
 18 available pad made by Ampad.
 19 Q. Okay. And did you consider those Ampad pads, five
 20 six of them, in coming to your conclusions in this
 21 report?
 22 MR. SCOTT: Objection. Asked and answered.
 23 A. I don't believe so, no, not in the conclusion, no.
 24 Q. So you didn't consider the degree of variation that you
 25 saw among the six, for example?

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1 didn't say that.
 2 Q. And you are not saying that now?
 3 A. Of course not.
 4 Q. Okay. So you cannot testify that the various pieces of
 5 graph paper that we have before us here in this case
 6 are from the same pad or from a different pad, true?
 7 A. Not true.
 8 Q. You can testify that they are from the same pad?
 9 A. I can testify to a reasonable degree of certainty based
 10 on everything that I have found that they are, yes. Of
 11 the ones that I noted in my report, and I said which
 12 ones were from the same pad.
 13 Q. Okay. And that is -- you are able to testify to that
 14 to a reasonable degree of scientific certainty even
 15 though you have only looked at six other Ampad pads and
 16 no other manufacturer and don't know the tolerances, is
 17 that a fair summary?
 18 MR. CUNNINGHAM: Objection.
 19 A. Right. It is not based on that, so yeah, all those are
 20 true though. You didn't state the basis for my
 21 conclusion, which is why all the other ones didn't
 22 matter, but I agree with you.
 23 Q. The graph paper lines don't matter, is that fair?
 24 A. No, that's not what I said.
 25 Q. The graph paper lines do matter in your conclusion that

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1 they are from the same pad?

2 A. They are a factor.

3 Q. Okay. And I'm trying to explore that. You have

4 testified that you got life experience and you

5 purchased six pads, right?

6 A. That's one of the things that I have said since I have

7 been here, that's right.

8 Q. And you did not consider that and I think you have said

9 that twice over objection of counsel at the other end

10 of the table, you did not consider that in coming to

11 your conclusion, right?

12 MR. SCOTT: Objection as to your former

13 question, sir.

14 A. I didn't say that, no. I said I did consider my life's

15 experience. I said when I saw the pads that I got, it

16 confirmed what I thought I would see and what I had

17 seen in my life, so I didn't necessarily consider that

18 to arrive at the opinions that I did.

19 Q. You consider your life experience but not the six pads,

20 do I have it correct?

21 A. To segregate the two like that is misleading. I did

22 not specifically consider the six pads, that's correct,

23 but it confirmed what I saw and what I remembered and

24 what I have seen in my life. So it had something to do

25 with it but it isn't the basis for an opinion is what

1 Q. That's your addendum report.

2 A. Do you want me to give you Q-6 back to is it is not on

3 table?

4 Q. That will be great. I will have it here.

5 Q. Exhibit 3, paragraph A2, we talked about this already

6 and you testified that you microscopically examined the

7 edges of the paper in question here, right?

8 A. That was one of the things that I mentioned, right.

9 Q. Did you make any analysis of the graph paper or the

10 lines or the lines to the edge of the paper here in

11 question, Q-1 through Q-6, when you microscopically

12 examined?

13 A. Well, ignore -- when I answer those questions about

14 that, I will ignore Q-5 for obvious reasons because it

15 is not the same kind of paper.

16 Q. Okay.

17 A. So if that's all right, we will just --

18 Q. Sure?

19 A. I believe it is Q-5. Let me just make sure.

20 Q. I agree?

21 A. Just assume that I am not referring to that when eye

22 talk about it. So for all the other ones, yes, I did

23 look at the distance between the grid lines and the

24 edge of the paper.

25 Q. Where is that reported in your report?

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1 I'm saying.

2 Q. And you have not measured the degree of margin of error

3 of either the graph lines or the graph lines to the

4 edges of any pads, fair?

5 MR. SCOTT: Objection. Asked and answered.

6 A. Correct.

7 Q. But nevertheless, the six pads that you bought

8 confirmed your life experience?

9 MR. SCOTT: Objection.

10 MR. McLAREN: Having not measured anything.

11 A. The six pads are exactly what I thought I would see

12 when I looked at six different pads of graph paper.

13 Q. And you have not measured them or in your life

14 experience the lines or the edges of any of the others,

15 is that fair?

16 A. That's correct, I don't think I have ever measured the

17 distance in a piece of graph paper in my life.

18 Q. Do you know how many manufacturers of graph paper there

19 are in the United States?

20 A. No.

21 Q. Do you know how many graph paper is sold in a year in

22 the United States?

23 A. No.

24 Q. In Exhibit 3, --

25 A. Refresh my memory. What is that.

1 A. Okay. We have got it I think in three places or four

2 places. First is the addendum report, paragraph seven,

3 talks about it.

4 In the first report, paragraph 17 talks about

5 it; paragraph 18 talks about it; so I think those

6 three. I thought there might have been one more that I

7 didn't see that I did earlier.

8 Q. Okay?

9 A. Paragraph eight in the addendum. Sorry. I skipped

10 over that one.

11 Q. All right. Let's start with the first report first.

12 Paragraph 17. First point out to me where your

13 measurements are reported in paragraph 17. I don't see

14 any measurements?

15 A. I never said that there were. That wasn't the question

16 you asked me.

17 Q. The question I asked you was where in your report did

18 you report measuring with the microscopic examination?

19 MR. CUNNINGHAM: Objection.

20 MR. McLAREN: The edges of --

21 A. Maybe we should have her read it back. I didn't answer

22 the right question then. Could you read back the one

23 that was pending before that I was looking at, please.

24 Q. That's all right. I will restate it.

25 Did you in the course of doing the microscopic

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1 examination that you described, measure the edges, the
 2 graph paper lines to the edges of Q-1 through Q-6.
 3 A. No, I have answered that several times. I have never
 4 done it in my life, I don't think, is what I said,
 5 including this case.
 6 Q. Okay. So now turning to paragraph 17, you say that in
 7 paragraph 17, you compared the graph lines, is that
 8 what you are focusing on, fourth line down, can be
 9 easily seen by comparing the graph lines?
 10 A. Correct.
 11 Q. Okay. Is that what you were referring to before?
 12 A. Yes.
 13 Q. Did you compare the graph lines?
 14 A. Yes.
 15 Q. Did you compare them to any control, anything other
 16 than Q-1 to Q-6?
 17 A. In that specific paragraph?
 18 Q. Anywhere.
 19 A. Well, yes, there is four different paragraphs that talk
 20 about what was compared to what.
 21 Q. Okay. My question is, in any of the reports, did you
 22 compare the graph lines of any of the Q-1 through Q-6
 23 documents to a control document, something other than
 24 Q-1 through Q-6? Any pad from any manufacturer.
 25 A. I don't think so, no.

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1 Q. Okay. So you compared the graph lines from the graph
 2 paper among themselves, is that fair?
 3 A. What's your question, relative to paragraph 17 or
 4 relative to the two reports?
 5 Q. Well, I'm looking at paragraph 17 because you pointed
 6 it to me, but my question is, broadly, you compared the
 7 Q-1 through Q-6 graph lines to each other but not to
 8 any control, fair?
 9 A. That's a two part question. The first part, Q-1
 10 through Q-6 was compared to each other but not
 11 exclusively and only that one to each other. Part two,
 12 I did not compare it to a control, as I said
 13 earlier.
 14 Q. And you did not measure?
 15 A. I never measured anything. I don't know how much more
 16 clear I can be.
 17 Q. Okay. All right.
 18 A. Relating to graph paper, I have never measured
 19 anything.
 20 Q. Right. You said paragraph 18. And there you say
 21 spacially lined up with the graph paper lines which
 22 again shows that Q-1 was fixed -- and this time you say
 23 near perfect alignment, all right. When you say
 24 spacially lined up with the graph paper lines, same
 25 question, did you compare Q-1 for these common

1 impressions to any graph paper other than Q-1 through
 2 Q-6?
 3 A. First thing, you misquoted the report, it says Q-2 was
 4 fixed in near perfect line alignment, not Q-1, as you
 5 said. Second of all, I compared Q-1 to Q-2, as it says
 6 there. I don't believe I compared either one of them
 7 to any document other than Q-1 through Q-6, as I said
 8 earlier.
 9 Q. Now paragraph 19, you talk about the blade marks. Do
 10 you see that?
 11 A. Of the first report?
 12 Q. Yes. Next paragraph down?
 13 A. Yes.
 14 Q. Did you compare the blade marks of Q-1 through Q-6 to
 15 any cuts of any edges of any graph paper other than Q-1
 16 to Q-6?
 17 A. No.
 18 MR. SCOTT: With respect to his initial
 19 report?
 20 MR. McLAREN: Or any report.
 21 THE WITNESS: No.
 22 Q. (By Mr. McLaren): Is it your testimony that the blade
 23 marks on Q-1 through Q-6 are unique?
 24 MR. CUNNINGHAM: Objection.
 25 MR. McLAREN: Basis.

1 MR. CUNNINGHAM: You are including Q-5 in
 2 that. And I believe he testified that he would rather
 3 keep that out.
 4 MR. McLAREN: Yes. We have been doing that
 5 all along, but I should rephrase. I will.
 6 Q. (By Mr. McLaren): Mr. Speckin, are you testifying
 7 that Q-1 through Q-6 with the exception of Q-5 are
 8 unique with regard to their blade marks?
 9 A.
 10 MR. CURTIN: Objection. Vague.
 11 A. What do you mean, unique?
 12 Q. Well, you say that they have blade marks and you say
 13 they are likely the result of the manufacturing process
 14 and I'm asking you whether or not you know whether or
 15 not there are other individual sheets of paper that
 16 have the same blade marks?
 17 A. I don't know of any other than the ones I mentioned
 18 that had the same ones.
 19 Q. Do you know that there are not any others?
 20 A. In the world?
 21 Q. Yes.
 22 A. I have no idea.
 23 Q. And that's because you don't know how often a blade is
 24 used to cut how many sheets of paper, we established
 25 that before?

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1 A. That's a two part question again. We did establish
2 that before, but no, that's not why I don't know.
3 Q. All right. Why don't you know whether or not there
4 were other pieces of paper in the world that have the
5 same blade marks?
6 A. Well, if the blade is a rotary blade that cuts down the
7 paper, it is not going to be the same on -- even if
8 that same blade cut ten million sheets, it is not going
9 to have the same marks and same nicks because the
10 imperfections in the blade are not going to hit at
11 exactly the same place down the page, so it doesn't
12 mean there is going to be multiple ones that are the
13 same. At this point in time, I can't establish the
14 uniqueness of what those blade marks are. Also, I have
15 to consider that there is four sides to the paper so
16 based on all four sides, it may very well be unique
17 that no other document in the world from any pad would
18 have the same blade marks. It is possible. But I
19 don't know the answer as I sit here to.
20 Q. Well, if it is -- first if it is a circular blade as
21 you hypothesize, it is going to turn a full
22 revolution, you know, within some space of time,
23 correct?
24 A. Is that answer really obvious that it is yes? I think
25 it is. Of course it will.

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1 Q. Sure. So when it comes around full circle, then that
2 next pad is going to have the same blade marks as the
3 pad that was cut by that segment of the circle, one
4 revolution before, right?
5 A. Not necessarily in the same place though, no, there
6 won't.
7 Q. Do you know how paper is manufactured?
8 A. I know there are several different ways it can be
9 manufactured.
10 Q. And do you know how graph paper is printed?
11 A. I said no.
12 Q. Okay. Do you know how it is cut?
13 A. No.
14 Q. Do you know if it uses a circular blade?
15 A. No.
16 Q. Okay. If it is not a circular blade but a straight
17 blade, how many millions of sheets of paper could have
18 exactly the same blade marks, do you know?
19 A. Again, I don't know.
20 Q. Okay. And you don't know whether the exact same blade
21 marks might be on pieces of paper that came from a pad
22 and also on pieces of paper that were packaged as a
23 ream, correct?
24 A. I don't know, right.
25 Q. Okay. At the end of your first report, Mr. Speckin,

1 you sign it Erich J Speckin, forensic document analyst.
2 Do you see that?
3 A. Yes.
4 Q. Did I read it correctly?
5 A. Yes.
6 Q. And let me start with this. Did a college award that
7 title?
8 A. No.
9 Q. Did a university award that title?
10 A. No.
11 Q. Have you passed the board of forensic document
12 examination examiners examination?
13 A. No.
14 Q. So you are not board certified by the board of forensic
15 document examiners?
16 A. That's correct.
17 Q. And have you passed the examination given by the
18 national association of document examiners?
19 A. No.
20 Q. So you are not certified by the national association of
21 document examiners, correct?
22 A. That's right.
23 Q. Okay. So if this forensic document analyst title
24 doesn't come from a college or a university or the
25 board of forensic document examiners or the national

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1 yourself, for example?

2 A. That's it. That's all I was told, the court of final

3 -- all I was told about it.

4 Q. Okay. Well, there are other quotes about you in this

5 document, but if you have not heard of this -- of what

6 contents are, there is no point in reading it.

7 A. Same answer for all these. I have never seen this

8 document, I have never even heard about it, I just knew

9 that the court of final appeal made a decision in 05,

10 but I have never seen it.

11 Q. How about the decision by Yam judge, have you ever seen

12 that in writing?

13 A. Yes, many times.

14 Q. And are you aware that he found that you had

15 exaggerated your credentials?

16 A. I think that was one of the things in there, Yes.

17 Q. And are you aware that he found that your credentials

18 that you stated your credentials in a way that was

19 misleading?

20 A. I don't -- something to that effect. I don't recall

21 exactly what he said every heir paragraph, but

22 something like that.

23 Q. Let's take a break for ten minutes while I find my

24 copy. That way I can direct you right to the quotes.

25 VIDEOGRAPHER: This completes tape and disk

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1 two. We will go off the record at 2:44.

2 (Whereupon a break was taken .

3 From

4 VIDEOGRAPHER: We are back on the record at

5 3:01. This is tape and disk three of the deposition of

6 Erich Speckin. Please proceed.

7 Q. (By Mr. McLaren): Mr. Speckin, would you take the

8 Westlaw document and what exhibit is that, please?

9 A. 11.

10 Q. Okay. Would you turn to page 198 at the top right hand

11 corner. A quarter of the way down on left hand column,

12 paragraph 29.3, under forensic training, E J S gave the

13 following description. Do you agree that E J S is you,

14 Mr. Speckin?

15 A. Yes.

16 Q. You gave the description quote two year residency with

17 Leonard A Speckin, his father, in the examination of

18 questioned documents and one year residency with

19 Brunell forensics laboratories in the identification

20 and dating of inks, end quote. Did I read that

21 correctly?

22 A. You read it correctly, yes.

23 Q. And then the judge Yam goes on to say 29.4, his alleged

24 residency with his father as he admitted has no bearing

25 to this case. Did I read that correctly?

1 A. Right.

2 Q. His a lend residency where Mr. Brunell lasted about 50

3 days only over a period of one year etcetera, etcetera.

4 Did I read that correctly?

5 MR. SCOTT: No, you did not.

6 MR. McLAREN: What did I read wrong.

7 MR. SCOTT: Where does it say etcetera

8 etcetera.

9 MR. McLAREN: I clipped the paragraph because

10 it is so long.

11 MR. SCOTT: No, if you want to take an

12 improper approach by reading portions of a portion of a

13 decision for the record, then to do it correctly.

14 MR. McLAREN: Your objection is noted.

15 MR. McLAREN: I will do it again, Mr. --

16 MR. SCOTT: You are asking if it is correct

17 and we are answering it no. You just want to read it,

18 go ahead and read it, don't ask us it it is correct and

19 be concerned that we are telling you that it is not

20 correct.

21 MR. McLAREN: Would you like to be sworn under

22 oath?

23 Q. (By Mr. McLaren): Mr. Speckin, 29.4 says in part his

24 alleged residency with his father as he admitted has no

25 bearing on this case, his alleged residence dean see

Exhibit 5

CONFIDENTIAL DOCUMENT

Exhibit 6

EXPERT REPORT OF ALBERT H. LYTER III

Power Integrations v. Fairchild, C.A. No. 04-1371 JJF (D. Del.)

I. QUALIFICATIONS/PUBLICATIONS

1. My areas of expertise, work experience, and educational background are listed on my curriculum vitae attached as Exhibit A. I am an expert in the area of questioned document examination, and I specialize in the dating of documents and the dating of inks and papers.
2. A list of papers and publications that I have authored or co-authored is included in the curriculum vitae attached as Exhibit A.
3. I am currently in private practice, and I have been since 1981, with prior government service dating back to 1975, serving in my capacity as a Forensic Chemist specializing in the examination of questioned documents.

II. PRIOR TESTIMONY

4. I have testified over 350 times at deposition or trial regarding forensic testing and analysis of documents. A list of these appearances over the last 4 to 5 years is attached as Exhibit B.

III. COMPENSATION

5. I am being compensated for my work on this case at my standard rate of \$350.00 per hour. This hourly rate applies to all time spent, and a minimum fee of \$1500.00 is required for depositions.

IV. SUMMARY OF OPINIONS

6. The following is a summary of my opinions, based upon my forensic analysis of the documents at issue in this case and the review of the Expert Report of Erich J. Speckin in this case.

- A. All of the documents Mr. Speckin addressed in his report (PX-29, PX-30, PX-37, KE1447 – KE1449, and KE1466) were xerographic reproductions with several containing original ink writings. Because these documents are reproductions, Mr. Speckin is limited in what he can say about them. Nevertheless, Mr. Speckin does not say any of these documents are

forggeries or that any of the substance of the documents has been altered in any way.¹

- B. A basic visual inspection of the underlying documents labeled PX-29, PX-30, the first four pages of PX-37, and KE1447-KE1449 shows that the documents are aged, and they have clearly yellowed. Mr. Speckin has not presented anything inconsistent with Dr. Eklund's testimony that the original documents, from which these reproductions were created, were made on or about the dates listed on the face of the documents (January 1985 for PX-30 and September 1984 for the others) and that the copies themselves were created in approximately that same timeframe.
- C. The last two pages of PX-37 and the document labeled KE1466 appear to be copies of more recent vintage; they do not bear the aging characteristics of the documents mentioned above, and the paper on which they are copied is not yellowed. Mr. Speckin spends a great deal of his report addressing KE1466, but he has ignored this basic observation (a likely explanation for which is that KE1466 was copied from Dr. Eklund's papers during the course of the litigation and then found its way into the stack of papers when they were being assembled for production). I do not agree with Mr. Speckin that the reproduction labeled as KE1466 has any bearing on the other documents containing the same substance or the underlying documents from which these reproductions were made. The observations reported by Mr. Speckin are all consistent with the presence of different generations of copies of similar documents, and in no way impact the vintage of the documents. Mr. Speckin comments on the presence of different markings on KE-1446 in the area of the date as it relates to the page number that is present on the second page of PX-30. I believe that Mr. Speckin's interpretation is flawed and that the markings he is referencing are the ending stroke of the number 2 and an extraneous mark associated with the grid lines that are evident on KE-1446. Any other interpretation is not supported by the evidence, especially in light of the other observations noted regarding KE-1446.
- D. The ink from the blue ball pen writings that appear on page 1 of PX-30 is similar to an ink formulation that was commercially available in 1984.
- E. A single black ball pen ink formulation was found on page 1 of PX-30 as overwriting² of the date and several lines in the middle right portion of the

¹ Mr. Speckin only addressed a handful of Klas Eklund's documents, and he does not suggest that any of the remainder of Dr. Eklund's thousand-plus pages of documents, many of which are original documents, are anything other than what they purport to be.

² References to "overwriting" in this report refer to instances where marks on an underlying photocopy have been traced over in pen to darken or enlarge the markings, and do not suggest that the underlying content of the writings has been altered or changed in any way by the addition of pen markings. Mr. Speckin seems to have the same understanding, as he does not contend that the overwriting altered the substantive content of any document in any way.

page. This same black ball pen ink formulation was found on page 2 of PX-30 as the dashed line that runs perpendicular to the drawing on the page. Additionally, this black ball pen ink formulation was found on KE-001449 as the writing along the bottom, and on KE-001447 as the writing inside the “G box” of the drawing.

- F. The black ball pen ink formulation referenced in paragraph E matches a standard ink formulation that has been commercially available since prior to the year 1984. Specifically, samples of the black ball pen ink writings referenced in paragraph E were found to contain unique components that are indicative of manufacture of the ink during the year 1983. The presence of this particular ink within the available universe of useable inks would decrease as one progresses from the year 1983. Mr. Speckin’s conclusions regarding the dates of blue and black inks are inappropriate because he admittedly does not rely on anything conclusive regarding their commercial availability.
- G. The presence of staple holes, different types of paper, multiple hole punches and photocopy damage patterns (trash marks) in the absence of known standards cannot aid in determination of the preparation date of the original documents. Any evidence of sequence of production of copies, use of multiple paper types that were then copied, or presence of multiple staple holes or punch holes only applies to the available copies and provides no information about the originals from which they were made.
- H. Based on my evaluation and my experience in the field of forensic examination of documents, it is my opinion that the evidence of the documents themselves and my forensic analyses detailed below is consistent with Klas Eklund’s testimony that the original documents from which the copies were made were created on or about the dates indicated on the documents.

V. EVIDENCE CONSIDERED AND RECEIVED

- 7. I received the following evidence to review in California in January 2007:
 - A. Six photocopied pages labeled as PX-37 (containing 4 pages on standard 8 ½ by 11 inch for which a similar document has now been labeled PX-29 and 2 additional pages on A-4 size paper for which similar copies have been labeled as PX-30, the last page of the group being a color copy) (hereinafter “PX-37”);
 - B. Four photocopied pages labeled as PX-29 on 8 ½ by 11 inch paper in black and white (hereinafter “PX-29”);
 - C. Two photocopied pages labeled as PX-30 on 8 ½ by 11 inch paper (the first page contains original black and blue ball pen overwriting, the second page contains only black ball pen writing) (hereinafter PX-30);

- D. I was also provided a series of other documents from Klas Eklund, including documents labeled as KE-00001 to KE-001436 (hereinafter KE-00001 - KE-001436).

8. I reviewed the depositions of Klas Eklund. In July of 2007, I also examined the following additional documents and was in the presence of Mr. Speckin during his examination.

- A. One black and white photocopied page on A4 size paper that was bates labeled KE-1446 (similar to page 2 of PX-30) (hereinafter KE-1446);
- B. Three photocopied pages on 8 1/2 by 11 inch paper labeled as KE-1447 to KE-1449 (similar to the first three pages of PX-29, with an additional handwritten line in black ball pen ink on page three and some overwriting in black ball pen ink on page 1) (hereinafter KE-1447 – KE-1449);
- C. A series of documents labeled as KE-001437 to KE-001703 (hereinafter KE-1437 – KE-001703);
- D. The documents previously examined in January of 2007 were also present at this examination.

VI. EXAMINATION TASK

9. The examination task was to determine whether the examined documents were prepared in a method and manner, or at a time, that was inconsistent with their purported preparation. I was also asked to review the Expert Report of Erich Speckin for completeness and correctness regarding methodology and consistency of examination results.

VII. EXAMINATIONS CONDUCTED AND PROCEDURES USED

10. **Visual Examination:** The documents referenced were reviewed visually with the aid of magnification. The presence of ink overwriting on photocopied documents was noted. Various other characteristics involving the method and manner of preparation were noted, but due to the absence of known standards and the absence of clear evidence of the actual method and manner of preparation or construction of the documents, these notations were deemed to have no forensic value regarding the examination task.

11. **ESDA Examination:** This examination results in the preparation of a positive print of the indented impressions present on the examined sheet of paper. These prints are referred to as “ESDA lifts”. Mr. Speckin performed this examination on numerous documents, and we were provided these “ESDA lifts” for the purpose of duplication and study.

12. INK COMPARISON: It is possible to determine similarity between various ink writings by performing a sequence of examinations. This sequence is reported in the ASTM guide E-1422-05, Standard Guide for Test Methods for Forensic Writing Ink Comparison. I performed the following examinations: visual examination, infrared reflectance and luminescence, and thin layer chromatography (TLC). This examination protocol has been shown to provide enough evidence to allow certain conclusions to be drawn regarding the number of different ink formulations present in handwritten entries. The thin layer chromatographic examination was performed as follows:

- A. Small samples of ink and paper were removed from the documents by using a 0.5mm diameter hole punch. These samples were collected from the various documents in July of 2007 and transported to my laboratory in small plastic vials with snap enclosures. These vials were labeled accordingly. A portion of the ink samples contained in each vial was transferred to a glass vial for this examination.
- B. Control samples without ink were taken from the paper of the various documents, as well as a sample of the toner material from one of the documents. These samples insure that no interference or contamination was present in the ink samples.
- C. Because the writing ink samples were identified as ball pen, the appropriate extraction solvent is pyridine. This solvent was added to each glass vial containing a sample.
- D. With a glass capillary, the extraction solution containing both ink and pyridine was transferred in small applications to a pre-activated, glass back, silica gel high resolution thin layer chromatographic plate;
- E. The solvent was allowed to evaporate from the plate;
- F. The plate was developed in Solvent System I from the referenced ASTM Guide.

13. INK IDENTIFICATION: Through the use of a similar sequential examination in comparison with a known collection of standard ink formulations, it is possible to determine the manufacturer of the ink being examined and assign a formulation designation and first commercial availability date. This procedure is described in ASTM Guide E-1789-04, Standard Guide for Writing Ink Identification. The collection of ink formulations used in this examination is maintained by Federal Forensic Associates, Inc. and has existed since the early 1980's, with subsequent additions as new ink formulations become available. Federal Forensic Associates' library has been relied on by dozens of companies and government agencies, including the Equal Employment Opportunity Commission, the Bureau of Indian Affairs, the US Postal Service, and the Attorneys General of Ohio and New York. Having previous experience with the standard collection maintained by the USSS (United States Secret Service) and interfacing with the various ink manufacturers both domestically and foreign, the standard collection maintained by Federal Forensic Associates is reasonably complete regarding ink formulations that were commercially

available within the time period represented by the dates that appear on the examined documents. I performed an examination consistent with the ASTM Guide and using the referenced standard collection to identify the manufacturer or determine the commercial availability of the ink used to prepare the writing present on the examined documents. This procedure involves the following steps:

- A. The thin layer chromatographic separation of the components of the blue ball pen ink and black ball pen ink that were found within the examined documents were compared with similar chromatographic results of the standard collection of ink formulations.
- B. A list of possible standard ink formulations was compiled based on their similarity to the chromatographic separation of the writing inks found on the examined documents. The goal at this stage is to include all standard ink formulations that "may" be similar and not to exclude any ink formulations without cause.
- C. All of the ink formulations present in this list are sampled and examined using the same thin layer chromatographic procedure outlined in paragraph 12, items A-F. Additionally, a sample of the ink writing that appears on the examined documents was also included in this analysis. This step resulted in the preparation of two different thin layer chromatographic plates: one for blue ball pen samples and one for black ball pen samples.
- D. Determinations regarding similarity and difference were then made regarding the comparison of the ink writing from the examined documents and the standard ink formulations by visual examination of the TLC plate in white and ultraviolet light.
- E. This procedure was repeated with the inclusion of various production samples from a single ink manufacturer to ascertain the consistency among various batches of the same ink formulation that were manufactured over several years from 1980 to 1991.

14. DATING TAGS: The Ink Identification process relies on frequent changes in the various ink formulations manufactured by companies both domestic and foreign. In the 1970's, the Bureau of Alcohol, Tobacco and Firearms, part of the U.S. Treasury Department, contacted the various ink manufacturers and requested that they add unique components to their ink on an annual basis. This would act as a forced formulation change and aid in the detection of fraudulently produced writings. Various unique components were used during the 1970's and into the 1980's. One specific manufacturer, Formulabs, Inc. of Escondido, California, chose to add unique fluorescent dyes to their ink formulations, either individually or in combination, to permit identity of the actual year of manufacture of the examined ink writing. During the development of this process, I was an employee of the U.S. Treasury Department, and I was intimately involved in this process, including the choice of unique components, their implementation into the manufacturing process, and the methods of detection of Dating Tags. The following procedure was used to

determine the presence of Dating Tags in the writing from the examined documents. This procedure is referenced in the ASTM Guide E-1789-04, Standard Guide for Writing Ink Identification.

- A. Thin layer chromatography is used to separate any of the unique components present in the examined ink writings. A pre-activated, standard E.M. Merck, silica gel thin layer chromatographic plate and Solvent System III are used in the analysis.
- B. Hole punch samples, similar to those referenced in paragraph 12A, were obtained from previously stored samples from the writings that appear on the examined documents and standard ink samples from Formulabs, Inc.
- C. These samples were placed into glass vials and extracted with pyridine.
- D. The pyridine and ink extract was transferred to the E.M. Merck thin layer chromatographic plate via glass capillary.
- E. The pyridine was allowed to evaporate.
- F. The plate was developed in Solvent System III for 10 minutes and viewed under ultraviolet light.
- G. Images of this separation were recorded electronically.
- H. A determination of the Dating Tags that were present was made.
- I. References were consulted to determine the specific year of manufacture of the examined ink writings.

VIII. OBSERVATIONS, RESULTS, AND OPINIONS

15. Ink Analysis of blue ball pen ink overwriting: The blue ball pen ink found in the overwriting on page 1 of PX-30 was similar to a formulation of ink found in a writing instrument of Italian origin. The specific manufacturer of this ink was not determined, but the particular writing instrument was purchased in London, England in 1984. Accordingly, the blue ball pen ink formulation appearing on PX-30 was likely commercially available at least as early as 1984. Mr. Speckin's report does not contradict this finding.

16. Ink Analysis of black ball pen ink overwritings:

- A. The black ball pen ink on page 1 of PX-30, which was used to overwrite the wavy line on the right side of the page, the overwrite of the "8" and "5" of the date, the vertical dashes on page 2 of PX-30, the single sentence on the bottom of page 3 (KE-1449), and the lines in the box on page 1 (KE-1447) all contained the same ink formulation from the same manufacturer.
- B. The black ball pen ink referenced above was identified as an ink formulation manufactured by Formulabs, Inc. The initial introduction of this ink formulation is prior to the dates that appear on the examined documents. Production samples of this ink formulation from 1980 to

1991 are available and found to be consistent in dye composition with the black ball pen ink found on the examined documents. This is contrary to Mr. Speckin's results and due to an error in his examination, both in interpretation and in completeness of pertinent knowledge.

- C. Formulabs, Inc. is a manufacturer of writing inks and usually prepares ink for insertion into writing instruments that do not bear the name Formulabs. Several writing instrument manufacturers have employed Formulabs, Inc., including A.T. Cross and Papermate Pen Company.
- D. Dating tags were detected in several of the writings from the examined documents that indicated that the ink used to prepare the writings was manufactured in 1983. Given the limited amount of this ink formulation manufactured during the time period, 1983, it is unlikely that the examined writings were prepared years after the time period referenced by the dates appearing on the examined documents.
- E. Therefore, the black ink on pages 1 and 2 of PX-30 and the first and last pages of KE1447-KE1449 is consistent with these documents having been made on or about the time they are dated, January 1985 and September 1984, respectively.

17. EDSA Lifts Performed by Erich Speckin

- A. As noted above, Mr. Speckin made a number of EDSA lifts during his day-long examination of Dr. Eklund's documents, but Mr. Speckin did not address those lifts in detail in his report.
- B. The EDSA lift from page 2 of PX-30 clearly shows the imprint of the tracing of various areas from the first page of PX-30. Additionally, the copies produced as PX-37 clearly show the folding of page 1 of PX-30 behind page 2 of PX-30 and that these pages were attached at the time they were copied.
- C. Based on my evaluation of these materials, it is apparent that pages 1 and 2 of PX-30 were and have been together since they were created from the originals of these documents. It is also clear that the last two pages of PX-37 were copied from PX-30. All of these findings are consistent with Klas Eklund's testimony concerning the documents and his handling and treatment of them.

18. Other Testing Results as Reported by Erich Speckin

- A. All of the examined documents are xerographic copies of previously prepared documents. The exact sequence of preparation of these copies is unknown, according to Klas Eklund. However, the presence of multiple staple holes or multiple hole punches is irrelevant in the determination of

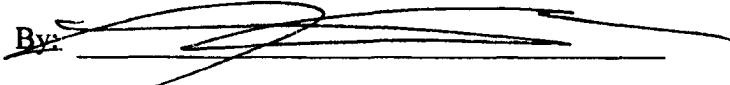
when the original documents, that are the source of these copies, were generated.

- B. The use of multiple types of paper in the preparation of notes or drawings is not an uncommon occurrence for most of the literate public. The fact that some papers bore evidence of a grid and some did not is simply evidence of multiple paper types.
- C. The presence of xerographic damage, or trash marks, is common among xerographically produced documents. The presence of multiple constellations of these marks is an indication of multiple machines being used. This is not an uncommon occurrence in an industrial environment.
- D. Mr. Speckin spends a great deal of time addressing KE1466, but he ignores the fact that this document appears to be a copy of recent vintage. The fact that the number "2" in the upper-right hand corner of the copy labeled KE1466 was partially cut off when the copy was made does not suggest anything to contradict my analysis of PX-30, which bears the same substance as KE1466, nor does it change the fact that PX-30 is numbered and dated January, 1985.

IX. CONCLUSIONS

- 19. Therefore, based on my experience and analysis, it is my opinion that there is nothing in the evidence I have been provided and have analyzed that is inconsistent with the conclusion that the original Eklund notes reflected in the relevant documents were created on or about the dates indicated on them (September 26, 1984 and January 1985), as Klas Eklund has explained during his testimony in this case.
- 20. The above conclusions are drawn to a reasonable degree of scientific certainty, and are based on generally accepted scientific procedures. The observations and examination results were based on recognized scientific techniques.

Dated: August 9, 2007



Dr. Albert H Lyter III

A



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EXPERIENCE:	<p><u>September 1981 to present</u></p> <p>President and Chief Scientific Officer of Federal Forensic Associates, Inc. Engaged in consultation, examination, training, research and testimony in Forensic Science, including ink and paper analysis, trace evidence and questioned document examination Qualified trace evidence areas include fire debris, explosives, paint, hair, fibers, glass and wood.</p> <p><u>January 1975 to September 1981</u></p> <p>Forensic Chemist, U.S. Treasury Department, Bureau of Alcohol, Tobacco and Firearms, National Laboratory Center, Rockville, Maryland Engaged in consultation, examination, training, research and testimony as service to federal and state law enforcement</p> <p>Court qualified in federal, state and military courts in over 33 states, U.S. Virgin Islands, Australia, Canada, Mexico, Malaysia and Singapore Instructor at the FBI Academy, Federal Law Enforcement Training Center, Naval Investigative Service, Air Force Office of Special Investigation, United States Secret Service, Florida Department of Law Enforcement, colleges and universities Lecturer at numerous scientific and legal organization meetings to include the American Academy of Forensic Sciences, American Society of Questioned Document Examiners, California Association of Criminalists, International Association of Forensic Scientists</p>

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 Southwestern Association of Forensic Document Examiners
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 American Chemical Society
 Society for Applied Spectroscopy
 American Society for Testing and Materials

PUBLICATIONS:

Comparison of Paper Samples - IAI News, 1976
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 Ph.D Dissertation - Surface Characterization of Polymeric Materials by X-ray Photoelectron Spectroscopy and Time-of-Flight Secondary Ion Mass Spectrometry: Biomedical Materials and Forensic Applications

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CASES OF NOTE: Mormon Will of the late Howard R. Hughes
 Slander trial of CBS, Sixty Minutes and Dan Rather
 Nazi war crimes case of Ivan Demjanuk
 Sam Shephard murder trial – 2000
 Martha Stewart case

B

CASE NAME	LOCATION	DEPOSITION	TRIAL
Antidote International Films v. Underdogs, Inc	New York, NY – Federal		6/15/07
O'Connor v. Allied International	Tampa, FL – State	5/16/07	6/27/07
Silmi v. Ahmed	San Francisco, CA – State	4/26/07	
Howe v. Service Tampa	Tampa, FL – State	2/28/07	4/25/07
US v. Lin	San Jose, CA – Federal		2/14/07
Fitzpatrick v. Immune Technologies	Ft. Lauderdale, FL – Federal		1/24/07
Petti v. O'Connor	New Castle County, DE – State	3/23/06	
Elborno v. University Anesthesiologists	DuPage County, IL – State	3/15/06	
Lenahan v. Unicom	Portland, OR – State		12/15/05
LG Phillips v. Tatung	Los Angeles, CA – Federal	10/27/05	
Maxxim v. McCauley	Tampa, FL – Bankruptcy		10/17/2005
Thompson v. Awesome Porducts	Western Dist. of Missouri – Federal	10/7/2005	
Pangle v. Greenwood	Kansas City, MO – State	5/19/2005	
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Tannis v. Watson	Board of Patent Appeals	1/12/05	
Cohen v. Manzullo MD	New Jersey – State	11/11/04	
Probate Matter Vera L. Sauer	Nevada County, CA – State		11/9/04
Bratt v. Laskas MD	Broward Co., FL – State	8/17/04	
Jupiter Medical Center v. Carr MD	West Palm Beach, FL – State	6/30/04	12/5/05
Bednaz v. Phillips	Raleigh, NC – State	9/29/04	
DCI v. CMCC	Seattle, WA – Federal	4/29/04	
Applegate v. Stephan	Los Angeles, CA – State	3/5/2004	
Colleran v. Blodgett	Santa Ana, CA – Arbitration	9/17/2003	3/30/2004
Boyette v. Delatorre	Hardee County, Florida - State	3/9/2004	3/10/2004
Armas v. South Florida Emergency Physicians	Miami – Dade County, Florida – State	3/9/2004	
US v. Stewart/Baconovic	New York, NY – Federal		2/20/2004
Clark v. DLJ	Santa Monica, CA – Arbitration		1/12/2004
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Rahenkamp v. Jupiter Medical Center	Palm Beach County, FL – State	10/16/2003	
State v. Felts	Sanford, FL – State		6/27/2003
Evans v. GM	Waterbury, CT – State		3/7/2003
Estate of Yvette Smith	Los Angeles, CA –State		3/12/2003
Minchew v. McMillan	Raleigh, NC – State	2/26/2003	
Sargon v. USC	Los Angeles, CA – State	1/23/2003	
US v. Clifford	Helena, MT – State		1/21/2003
Montaldo v. Northern Trust	Miami, FL – State	12/16/2002	
Whitley v. Interstate Fire & Casualty	Parish of St. Helena, LA – State	11/19/2002	
State v. Pino	Miami, FL – State	11/25/2002	
Estate of Jennie Stanton	Pikesville, KY – State	12/3/2002	
Hawthorne v. Parikh	Atlantic City, NJ – State		9/25/2002

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Poole v. Stark	New York, NY – State		7/16/2002
Keller v. GWU	Washington, DC – State	10/16/2002	
Puma v. Torres	West Orange, NJ – State	2/27/2002	
US v. Hively	Little Rock, AR – Federal		3/6/2002
SLT Group v. Wadsworth's Nissan	Denver, CO – State	3/20/2002	4/19/2002
US v. Ethan Allen	Cleveland, OH – Federal	2/7/2002	
CABN Investments v. Starlight	Los Angeles, CA – State	11/9/2001	
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Murphy v. Murphy	Rock Island, IL – State	10/17/2001	11/28/2001
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Ferris v. Fleischer	Ft. Lauderdale, FL – State	10/20/2000	
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D'Angelo v. Polish	Mentor, OH – State	8/1/2000	
Smotherman Estate	Lebanon, TN – State		6/21/2000
Taber v. Taber	Puris, MS – State		5/30/2000
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Alphin v. Picral	Danville, VA – State	2/23/2000	
Weiss v. Liberty Mutual	Miami, FL – State		11/17/1999
Singh v. Takhar	Bakersfield, CA – State		1/25/2000
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Schwarz v. Robinson	Hackensack, NJ – State	6/20/1997	11/17/2000